

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

FILED

BRANDON LEE BEVERLY,

AUG 24 2007

Plaintiff,

U.S. DISTRICT COURT
ELKINS WV 26241

v.

2:05 CV 75
(Maxwell)

DAVID A. PROCTOR, M.D.,
BOBBY HAMRICK, Supervisor,
Huttonsville Correctional Center,

Defendants.

ORDER

It will be recalled that on September 6, 2005, *pro se* Plaintiff Brandon Lee Beverly, who was, at that time, an inmate at the Huttonsville Correctional Center in Huttonsville, West Virginia, filed a Complaint under 42 U.S.C. § 1983 alleging a claim concerning improper medical treatment against a medical doctor as well as a supervisor employed by the Huttonsville Correctional Center. Although initially filed in the United States District Court for the Southern District of West Virginia, the above-styled civil rights action was transferred to this Court on September 19, 2005, pursuant to 28 U.S.C. § 1391(b).

It will further be recalled that, by Order entered July 21, 2006, the Court adopted a Report And Recommendation entered by United States Magistrate Judge John S. Kaull on April 21, 2006, and, pursuant to 28 U.S.C. §§ 1915A and 1915(e), dismissed the Plaintiff's Complaint, with prejudice, for failure to state a claim.

Thereafter, on September 25, 2006, a Motion To Dismiss was filed in the above-styled civil rights action by the *pro se* Plaintiff. In said Motion To Dismiss, the Plaintiff

requests that the above-styled civil rights action be dismissed in light of the fact that he cannot read or write and believes that it would be fruitless to proceed with his civil rights action without the benefit of a lawyer.

In light of the fact that the above-styled civil rights action was dismissed by virtue of the entry of the Court's July 21, 2006, Order, it is

ORDERED that the Plaintiff's Motion To Dismiss (Docket No. 24) be, and the same is hereby, **DENIED** as moot.

ENTER: August 24th, 2007



United States District Judge